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FLOOR DEBATE

January 30, 2002 LB 435

LB 435 adopts the Ag Suppliers Lease Protection Act. The bill establishes a mechanism for the resolution of lease disputes between agricultural tenants, as defined, and railroads to...or their successors in interest. LB 435 provides that a tenant who has made significant improvements to leased property shall have an opportunity to renew the lease at fair market value. This bill is somewhat of a hybrid of similar legislation enacted in Iowa, Kansas, and Montana. The bill in its current form also contains a somewhat modified right of first refusal should an owner of railroad land, where the agricultural tenant has made significant improvement, wishes to sell the property. The bill provides that the agricultural tenant shall be given first opportunity to purchase the property at fair market value. If the parties cannot reach agreement on fair market value the parties may appeal to the Department of Agriculture to determine fair market value. This amendment modifies the right of first refusal in both Section 4 and Section 5 of the bill. The primary substance of the amendment is to provide that, in either the case of renewing a lease or negotiating the purchase of the property, agricultural tenants shall have an opportunity to match a bona fide third party offer to either lease or purchase the property. If there is not a third party offer then the procedures would revert back to the original provisions of the bill as it appears in AM7119. In other words, the amendment would provide that an existing agricultural tenant would have the right to match a third party offer. However, if in negotiating a lease renewal or a property purchase there is not a third party offer and the parties cannot reach agreement on lease terms or the value of the property, the parties may utilize the mechanisms of the bill to reach resolution. I would like to clarify that the provisions of Section 4 pertain only to lease renewal upon the termination of a lease contract. It is not my intention that the bill would inhibit a property owner from terminating a lease prior to his...its expiration, according to the terms of the contract, should a tenant fail to meet the terms of the lease agreement, for example, a tenant is not making lease payments as agreed or not maintaining the property as specified in the lease. The bill does not inhibit a property owner's right to terminate the lease agreement nor require that the property owner renew the lease in such instances. The amendment also inserts a couple of other changes